(Testimony of Mrs. Josephine I. Briant.)

the opposite [2930] from what the witness said. The witness has stated just the opposite of what you say.

Mr. Houck: No. She is apparently referring—well, I will let the witness testify.

Q. You say there was no air space. Explain that.

A. I can't explain it.

Q. If the contents had shrunken, presumably there would be a larger air space; isn't that right?

Mr. Faulkner: We object to that as argumentative and leading and suggestive.

The Court: I think if you will read back the questions and answers the subject matter has been covered. However, I may be in error. I will have the reporter read the record.

(The record was read.)

Mr. Houck: Q. Did you observe any other things about those eggs that you put into the inspected cases?

A. There were some rotten eggs in there.

Q. What do you mean by "rotten eggs"?

A. An egg that is spoiled.

Q. How did you determine these were rotten eggs?

A. We just determined they are rotten by looking at them through the light. You can look at it through the light and you can tell how the egg is turning, whether it is a fresh egg or light or good or rotten, everything, through that light. That is how you can determine it, and some of those eggs were rotten. [2931]

(Testimony of Mrs. Josephine I. Briant.)

Q. Then what happened to these eggs after you had transferred the eggs out of the inspected cases and put other eggs into the inspected cases, what did you do with the cases then?

A. Those cases were set out, they were nailed up.

Q. Where did they go from the candling room?

A. They were shoved out.

Q. Who took them there?

A. Jimmy Nix nailed them on the outside.

Q. Nailed them up? A. Yes.

Q. Did you see what happened to those cases later? A. No.

Mr. Houck: That is all.

The Court: It is time for a recess.

(Recess.)

Mr. Houck: May I ask one or two more questions from the witness before cross-examination?

The Court: Proceed.

Mr. Faulkner: I have no objection.

Mr. Houck: Q. On other occasions after this incident in September, 1940, while you were at the San Francisco plant, did you transfer eggs on other occasions?

Mr. Faulkner: We object to that as incompetent, irrelevant and immaterial, and not within the issues of this case.

The Court: You will have to fix the time, the place, and the persons present.

Mr. Houck: My question was limited to the

(Testimony of Mrs. Josephine I. Briant.)

three months [2932] that she was in the Nye & Nissen plant in San Francisco.

The Court: You will have to fix the time and the place and the persons present.

Mr. Faulkner. You Honor covered this in a prior ruling.

The Court: Proceed.

Mr. Houck: Q. Do you remember another specific instance on which you transferred eggs in the Nye & Nissen plant there in San Francisco?

A. No.

Q. You don't recall a specific instance of doing that? A. No.

Mr. Houck: That is all.

Cross-Examination

Mr. Faulkner: Q. What was your name when you worked for Nye & Nissen?

A. Josephine Barri.

Q. You then married a sergeant in the Veterinary Corps, is that correct? A. Yes, sir.

Q. You are still married to him? A. Yes.

Q. You talked to some member of the Department of Justice about this cases, did you not?

A. Yes.

Q. When? A. The first time?

Q. The first time.

A. About a year and a half ago.

Q. What?

A. About a year and a half ago.

Q. That would be in the fall of 1944?

(Testimony of Mrs. Josephine I. Briant.)

A. I believe so.

Q. What was the man's name you talked to?

A. Mr. Magee.

Q. This man in the courtroom? A. Yes.

Q. Have you talked to him recently?

A. Yes. [2933]

Q. How many times have you talked to Mr. Magee or Mr. Johnson—is Mr. Johnson here, the gentleman you were talking to in the corridor during the recess? How many times did you talk to that gentleman and Mr. Magee before you got on the witness stand? A. About three times.

Q. Three times? A. About that.

Q. How many times in the last month?

A. About twice.

Q. About twice? A. Yes.

Q. When was the first time you were talked to about testifying in this case in the last eight weeks?

A. I can't remember the exact date.

Q. Do you remember the month?

A. Oh, yes.

Q. What month was it?

A. I believe it was in December. Oh, that is too far back.

Q. Yes, that would be too far back, but you remember a date in September, 1940, just as clear as could be, don't you? A. Yes, I remember.

Q. You went to work for the firm of Nye & Nissen down on Seventeenth and Missouri Street, rather on Townsend Street? A. Yes.

(Testimony of Mrs. Josephine I. Briant.)

Q. You had been an egg candler before, had you not? A. Yes.

Q. In Petaluma? A. Yes.

Q. For the firm of Nye & Nissen? A. Yes.

Q. Had you ever been an egg candler any other place? A. No.

Q. Was it the exact day that you came to work that this incident [2934] occurred? A. Yes.

Q. The very first day. What day was that?

A. I can't remember the day, the date, the exact date.

Q. But you do remember the month?

A. Yes.

Q. Do you remember whether it was in the beginning of September or the end of September?

A. The beginning.

Q. On that day did I understand that you had candled 20 cases of eggs that were inspected by the Department of Agriculture, or the Veterinary Corps?

A. I did not candle them alone. I helped candle them.

Q. So in the month of September there were some eggs candled by you that the Veterinary Corps came in and inspected, is that right?

A. Yes.

Q. Now, in that plant you had seven girls working? A. Yes.

Q. How many cases of eggs do you candle an hour when you are candling eggs?

A. I never averaged below three cases an hour.

(Testimony of Mrs. Josephine I. Briant.)

Q. Your average would be nearer four, wouldn't it? A. Yes, I suppose so.

Q. Was that a busy day, Mrs. Briant?

A. Yes.

Q. And seven girls working. A. Yes.

Q. All candlers average about three to four or a little more cases an hour, don't they?

A. Yes.

Q. How long do you work, what are your hours, in September of 1940?

A. They were from 8 to 4:30. [2935]

Q. From 8 to 4:30? A. Yes.

Q. How long for lunch? A. A half hour.

Q. So that you put in about eight hours a day, didn't you? A. Yes.

Q. So the seven girls on that day would have candled about 220 cases of eggs, wouldn't they?

A. Well, it depends on how they candle.

Q. Well, they candled about as fast as you did?

A. Yes.

Q. And you were not the fastest, were you?

A. No.

Q. You were not the slowest? A. No.

Q. You were all about the same, weren't you?

A. Yes.

Q. Assuming it was about 220 cases that you candled, give me the grades of eggs that you candled on that day, the various grades of eggs that you candled.

A. Well, the first thing we candled was Specials.

Q. What?

(Testimony of Mrs. Josephine I. Briant.)

A. The first we candled that day was Specials.

Q. I am asking you the grades of all the eggs that you candled. Withdraw that.

You were only one of the girls who candled the first twenty cases of Specials, weren't you?

A. I was one of them.

Q. The other seven girls were candling them, too? A. Yes.

Q. You candled those twenty cases, the seven girls, in less than an hour?

A. It took longer than that.

Q. Seven girls candling three and a half cases an hour, you [2936] would do twenty cases in less than an hour?

A. There was three of us girls to candle those eggs, it was Army eggs.

Q. They weren't Army eggs then?

A. We were told they were Army eggs.

Q. Who told you that?

A. Whoever told us to put the order up, that we were putting up an Army order.

Q. Who told you that?

A. I can't remember that.

Q. You can't remember that? A. No.

Q. Somebody told you and two other girls to candle 20 cases of eggs, that you were putting up an Army order? A. Yes.

Q. When you got through putting up the order, how many cases did you have left?

A. I don't know how many were left.

(Testimony of Mrs. Josephine I. Briant.)

Q. How many did you candle in order to put up that Army order of 20 cases?

A. It depends on what kind of eggs you get.

Q. I am asking you concerning the eggs in question, how many cases did you candle to put up the Army order? A. I don't know.

Q. Did you candle 25? A. No.

Q. 30? A. No.

Q. 40? A. No.

Q. 21? A. No.

Q. 19? A. No.

Q. Then what did your candle?

A. I don't know, but it was not that many.

Q. Was not 19? A. No. [2937]

Q. When you candle eggs, Mrs. Briant, you candle into how many qualities?

A. We were candling them for Special and Extras and to Standards.

Q. What?

A. We were putting up Specials and Extras and Standards, and we were working on storage eggs, and we have to take our time doing it because we were powdering, I think, and you couldn't average three cases an hour doing that.

Q. You could not? A. No.

Q. When you worked up in Petaluma you would candle at least 18 qualities of eggs, 18 different type eggs out of a rancher's box? A. Yes.

Q. You would average three or three and a half cases an hour candling those eggs into 18 separate grades? A. Yes.

(Testimony of Mrs. Josephine I. Briant.)

Q. Now, you had a job of candling three types of eggs down in this plant, and you would not average three and a half an hour?

A. You could not because you have to candle those eggs by hand and powder them to take the gloss off.

Q. Can we identify these eggs then that you were candling for Specials as storage eggs?

A. Yes.

Q. Where did they come from, do you know?

A. They came from the Puget Sound plant.

Q. They came from the Puget Sound plant. Had they just come into the Nye & Nissen plant on Townsend Street? A. Yes.

Q. That morning?

A. Not that morning. They had been in probably several days or a week; I don't know how long they were in there. [2938]

Q. Were the eggs cold? A. No.

Q. Three girls started to work on the candling of some eggs for an order of Specials, is that right?

A. Yes.

Q. About how many of those cases did you candle?

A. I don't know how many I candled.

Q. Did you candle a third of the 20?

A. I don't know, I can't say.

Q. But you did candle some? A. Yes.

Q. You did candle those that met the requirements in your judgment for Specials?

A. Yes, they were Specials.

(Testimony of Mrs. Josephine I. Briant.)

Q. After you got so many cases of Specials how many cases of Extras did you have?

A. I don't know.

Q. How many cases of standards did you have?

A. I don't know.

Q. You were told, however, that this was an Army order? A. Yes.

Q. Is that all you were told? A. Yes.

Q. Did you ever see the order?

A. No, I did not.

Q. Did you ever see the invoice or the handbill that accompanied the eggs out of the plant?

A. No.

Q. When you were all through your candling process how many cases of Special eggs did you have that day? A. I don't know.

Q. How many cases of Extra eggs did you have?

A. I don't know. [2939]

Q. On the finish of your work, the entire day, how many cases of Standard eggs did you candle in that plant? A. I don't know.

Q. How many of extras did you candle?

A. I don't know

Q. How many of the Specials?

A. After we finished that order we probably put up, made up other orders.

Q. When you had finished candling a case of eggs in that plant there was a place there for you to shove the case out? A. Not the empty.

Q. What? A. Not the empty.

Q. I am talking about your candling of some

(Testimony of Mrs. Josephine I. Briant.)

Special eggs, one case, two cases, or three cases, is that right? A. Yes.

Q. Did you see what the other girls were doing?

A. I was not watching them what they were doing.

Q. You do remember their names, though?

A. Oh, yes.

Q. What were their names, the names of the two girls who were aiding you in candling that order?

A. Laura Barone and Bernice, I don't know her last name.

Q. Where were they stationed in that candling booth in reference to you?

A. One on each side of me.

Q. Was there any partition between?

A. No, there was not.

Q. So the three of you got out twenty cases of eggs? A. That's right.

Q. Of specials?

A. Approximately twenty; I don't remember what the order was.

Q. Well, I thought the order was 20 cases.

A. Approximately twenty.

Q. Was the order thirty?

A. Anywhere——

Q. Was the order ten?

A. I don't know how many were in the order exactly.

(Testimony of Mrs. Josephine I. Briant.)

Q. You don't remember how many were in the order?

A. I don't remember how many were in the order.

Q. You don't remember how many you candled?

A. No.

Q. You don't know how many the girls next to you candled?

A. No; I don't watch what they do.

Q. You remember there were some eggs for an Army order that you candled on the first day you went to work there? A. Yes.

Q. In that candling booth after you finished getting those eggs out there, rather, when you finished candling that particular case of eggs, or a particular case of eggs, it went out onto the floor of the plant of Nye & Nissen? A. Yes.

Q. You remained in the candling booth?

A. That's right.

Q. What time did the Army Inspector come in?

A. In the afternoon, around three o'clock.

Q. Where were you then?

A. In the candling room.

Q. At that time you did not see the eggs that were tendered to those Army inspectors, did you?

A. I saw the cases come in.

Q. You saw the two or three cases that they brought in to candle? A. That's right.

Q. But you did not see the lot of eggs out of which they came, did you? A. No. [2941]

Q. At that time, in September of 1940, give me

(Testimony of Mrs. Josephine T. Briant.)

your best recollection of how many thousand cases of eggs were on the floor of Nye & Nissen when you went to work that morning?

A. I never counted them.

Q. There were thousands, weren't there?

A. I don't know.

Q. Give me the best recollection you have of the quantity of eggs that you saw in that plant when you went to work?

A. I never went in the ice box over there, I don't know how many there were there. The ones outside are mostly for orders, orders coming in and going out.

Q. Have you ever been in their ice box on Townsend Street? A. No, never was.

Q. Never was?

A. No. I was as far as the ice box door, that is all.

Q. You have no idea at all of the quantity of eggs that were on their floor, have you?

A. No.

Q. How were these eggs marked that you saw out on the floor?

A. Never noticed the markings.

Q. How were the eggs marked that you candled, how were the cases marked?

A. They were not marked.

Q. They were not marked? A. No.

Q. There was no Nye & Nissen label?

A. It had Nye & Nissen—didn't have a Nye &

(Testimony of Mrs. Josephine I. Briant.)

Nissen label, it had a Puget Sound on the outside; those were the cases we candled out of.

Q. Do you remember that?

A. I remember that distinctly. [2942]

Q. How many cases were on the floor of Nye & Nissen on that day? A. I don't remember.

Q. You don't know? A. No.

Q. Is that right? A. Yes.

Q. Some cases with Puget Sound labels came in to be candled by you? A. Yes.

Q. When you candled them out of a case with the Puget Sound label, what was the label on the case you put the eggs in?

A. A "Biddy" label.

Q. "Biddy" label? A. Yes.

Q. Then a "Biddy" label is a green label —

A. A blue.

Q. It was a blue label, and you in your experience with Nye & Nissen have seen thousands of blue labels? A. Yes.

Q. It was typical of the blue label?

A. Yes.

Q. So the eggs that you candled with the Puget label and that you had just been candling, you and ordinary typical Nye & Nissen "Biddy" label?

A. Yes.

Q. So that at some time there was a quantity of eggs on the floor of Nye & Nissen that had a blue label and that you had just been candling, you and two other girls, is that right? A. Yes.

Q. At the time that those eggs left that candling

(Testimony of Mrs. Josephine I. Briant.)

booth and went onto the floor they became part of maybe five hundred cases of eggs that had a blue label, did they not? [2943]

A. They could be.

Q. The Army came in about around three o'clock. Was your husband one of the men?

A. He was not.

Q. Do you know the name of the lieutenant; was it Lieutenant Hand who is now risen to the rank of Colonel?

A. I believe it was Lieutenant Anderson. Shortly after that he went overseas.

Q. Had you ever met him before? A. No.

Q. You knew him by name?

A. That is what they called him.

Q. So you in the candling booth knew that Lieutenant Andrews came in with a driver and did you see him pick out some of these eggs and inspect them?

A. No. They were shoved in from the outside.

Q. He was in the candling booth?

A. Yes.

Q. When the case was shoved in to Lieutenant Andrews did it have a blue label on? A. Yes.

Q. You don't know that was the case you candled that morning?

A. They had our initials on them.

Q. You had your initials on it?

A. We all had our initials, we had to put our names on.

(Testimony of Mrs. Josephine I. Briant.)

Q. Is it your practice to put your name on every case of eggs that you candle?

A. Always.

Q. Always? Where do you put your initials?

A. Sometimes in the center of the cleat, sometimes in the end of the case. [2944]

Q. When these eggs come in they are shoved in? We had a diagram here, your Honor. In other words, there is an empty and someone on the floor shoves those cases in to the candlers? A. Yes.

Q. When the Army comes in to inspect, is it your testimony that you were close enough to the Army inspector so you could see your initials on the case?

A. I didn't see them then, but I saw them when I transferred them.

Q. Speaking at the time that the Army inspected some eggs?

A. No, I didn't see them at that time.

Q. That afternoon you did not see them when they were candling them?

A. No, not when the Army inspector was candling them.

Q. They examined those eggs? A. Yes.

Q. Then they went back onto the floor of Nye & Nissen? A. After he candled them?

Q. Yes?

A. Those three cases remained in the room that he inspected.

Q. He left them there?

(Testimony of Mrs. Josephine I. Briant.)

A. He left them there and stamped the VC stamp on them.

Q. All of this time you were in the candling room? A. Yes.

Q. Could you see out the candling room onto the floor of the plant? A. No.

Q. When did you see eggs put on the floor of the plant that had the VC stamp?

A. I have seen them various times. [2945]

Q. Not on that afternoon?

A. No, I did not.

Q. Did you see any eggs with a VC stamp that morning when you went to work? A. No.

Q. On that afternoon? A. Yes.

Q. When?

A. After he put it on there.

Q. Did you see him put it on?

A. I saw him put it on the three cases in the candling room.

Q. Did you see him stamp the remaining cases?

A. No.

Q. Did you see the remaining cases with a stamp?

A. After they came in the room.

Q. You saw some cases that came back into the room later? A. With the VC stamp?

Q. With the VC stamp? A. Yes.

Q. What was the date?

A. I don't remember the date.

Q. What was the quality?

A. Supposed to be Specials.

(Testimony of Mrs. Josephine I. Briant.)

Q. Did the stamp say they were Specials?

A. No.

Q. What did the stamp say?

A. It didn't say. It was just VC and the date.

Q. VC and the date. You don't remember the date? A. No, I don't.

Q. Do you know whether the stamp had the name of the inspector on? A. No, I don't.

Q. You don't know whether the stamp had the initials of the inspector on? A. No, I don't.

Q. At all events, some time on that day after your experience [2946] in the morning candling these eggs you went about your business candling other eggs, didn't you? A. Yes.

Q. Now then, some time some request was made to you in respect to transferring eggs from one case into another, is that right?

A. That is right.

Q. You don't remember who made the request?

A. No, I don't.

Q. What time of day was the request made?

A. After the inspector left.

Q. What time of day?

A. I don't know the time. I would say time in between about three-fifteen or three-thirty, around in there.

Q. How many cases were you requested to transfer? A. All that were in the order.

Q. How many cases were you requested to transfer?

(Testimony of Mrs. Josephine I. Briant.)

A. I don't know how many were in the order. All those that were in the order were transferred.

Q. The only direction that was given to you was to transfer the eggs? A. That's right.

Q. Why did you candle the eggs before you transferred——

A. Because we were told to candle them.

Q. Where you are told to transfer eggs you don't do anything about candling them at all, do you?

A. That's right, but I wanted to see what was going in there.

Q. In other words, Mrs. Briant, when you got an order to transfer eggs it merely meant taking some eggs out of one of the [2947] cases and putting them into another? A. That's right.

Q. You have done it many times?

A. That's right.

Q. But on this particular morning or afternoon you wanted to candle those eggs to see what was going in one case to another, is that right?

A. I always did that.

Q. You always did that?

A. I always did that.

Q. When you got a direction in Petaluma, or any egg plant, to take some cases of eggs and take them out of one box and put them into another all you did was take those eggs out of the box and put them in the empty box; isn't that right?

A. If I was near a light I would look at what was going in the case.

(Testimony of Mrs. Josephine I. Briant.)

Q. Why would you do that?

A. I don't know, but I always did.

Q. Why would you do that?

A. I always did that.

Q. You always did it?

A. Yes; I wanted to see what kind of eggs I was handling.

Q. 15 dozen eggs, five flats of eggs, and you take them out of the case and you put them in the empty case, that is the entire process, the entire business of changing? A. Not always.

Q. But in this particular instance was the direction to transfer them?

A. I was hand picking previously to that time.

Q. Hand picking? A. Yes. [2948]

Q. Who told you to hand pick at that time and before the transfer?

A. We had to do that because they were in cartons.

Q. What were in cartons?

A. These eggs that the Army inspector inspected.

Q. Do you mean the original eggs?

A. The original eggs that the Army inspector inspected were in dozen cartons and we had to take out the others and put them in cartons, transfer the loose ones, four in each hand.

Q. In other words, Mrs. Briant, the Army inspected eggs, the eggs that were in the carton?

A. Yes.

Q. The eggs were stamped?

(Testimony of Mrs. Josephine I. Briant.)

A. That's right.

Q. You were told to get those eggs out of the case, were you? A. That's right.

Q. Why were you told to get them out of the cartons?

A. Out of the case to replace them with these others.

Q. We have a case of 30 dozen eggs in cartons and in order to get the cartons out of the case you took the individual eggs out of the carton?

A. We took the eggs out and replaced these others, put the eggs in, yes.

Q. Did you take all the cartons out of the case that had a VC stamp? A. Yes.

Q. Then you had an empty case?

A. Then we replaced——

Q. Then you replaced the eggs in cartons?

A. Yes. We put the low eggs, the eggs that were low, and replaced them in the cartons and then replaced the cartons in the VC stamped [2949] case.

Q. Then you took the eggs out—may I see the carton we brought in here the other day? In other words, the eggs that you were—the case that you were transferring eggs out of had 30 dozen eggs in a carton similar to this that I hold in my hand, Defendants' Exhibit BY?

A. The case of inspected eggs were in cartons. The eggs we got here to replace these in the cartons were loose. Therefore we had to take four in each hand and transfer them in the cartons.

(Testimony of Mrs. Josephine I. Briant.)

Q. When you transferred eggs at the plant of Nye & Nissen don't you take the candle out of your candling booth in order to make more room?

A. Not mine, they didn't at that time.

Q. They didn't? A. The light was there.

Q. You know the practice is to take the light out? A. No, never once when I worked there.

Q. When the direction was given to you to transfer the eggs out of this case then you had to take the eggs out of the carton? A. Yes.

Q. In the case that had a VC stamp on did they take some loose eggs and fill those cartons and put them back? A. Right.

Q. What kind of a case were the loose eggs from? A. An ordinary case.

Q. By loose do you mean they were not in cartons?

A. No; [2950] there were three dozen to a layer.

Q. Did that case have a label on?

A. I don't recall. They probably had different labels on.

Q. Do you recall how many cases you candled?

A. I didn't candle cases at that time, I just—as I went through I would pick up and look at them.

Q. In other words, as you were going along you just picked up and candled certain eggs?

A. Yes.

Q. How many of the cases, Mrs. Briant, did you fill in that manner?

A. I don't remember how many I filled.

(Testimony of Mrs. Josephine I. Briant.)

Q. Was it five or fifty?

A. I would say—the order was not for fifty.

Q. You never saw the order, did you?

A. No, but it was not a big order.

Q. How many cases did you personally handle when you took eggs out of a container and then put them into cartons and put them back into a case that had a VC stamp?

A. I don't remember.

Q. What it one? A. One I am sure of.

Q. Are you sure of two?

A. No, I am not.

Q. So you are sure of one case. Now, what happened to that one case?

A. Well, that one case went outside.

Q. Then what——

A. That case, the lid was put on.

Q. Did you see the lid being put on?

A. I could hear it.

Q. What happened to it after that?

A. I don't know.

Mr. Faulkner: I move all the testimony be stricken, your [2951] Honor.

The Court: Motion will be denied. Step down.

Mr. Faulkner: Exception.

Mr. Houck: May I ask two or three questions on redirect examination?

The Court: Proceed.

Redirect Examination

Mr. Houck: Q. Mrs. Briant, you testified that you talked to the agent in the past three times and

(Testimony of Mrs. Josephine I. Briant.)

that you talked to us twice fairly recently. Were the recent two times a part of the three or was it five times altogether?

A. I believe it was five times altogether.

Q. The three times would be prior——

A. Yes.

Q. To the last month or so? A. Yes.

Q. You testified you saw your initials on these cases when they came in to be transferred?

Mr. Faulkner: The witness' testimony is not plural. She just made it singular, on a case.

Mr. Houck: Q. On this occasion you recall that you saw your initials on it? A. Yes.

Q. Was that your first day in San Francisco?

A. Yes.

Q. Had you placed your initials in the process of candling eggs in San Francisco prior to this day you speak of? A. No.

Q. You testified you were powdering eggs that morning, is that [2952] correct? A. Yes.

Q. Did you powder these eggs for this order that you testified to? A. Yes.

Q. Who told you to powder them?

A. I don't remember, but we were given the order to powder these eggs.

Q. You don't recall who it was?

A. No, I don't.

Q. Why were you powdering these eggs?

Mr. Faulkner: We object to that as calling for an opinion and conclusion of the witness.

The Witness: A. To take——

(Testimony of Mrs. Josephine I. Briant.)

Mr. Faulkner: Just a moment. That is hearsay as to the defendant.

The Court: The fact is she did.

Mr. Pratt: I think we are entitled to know why eggs were powdered, what was the purpose of powdering eggs.

The Court: The ultimate fact is that she did powder them.

Mr. Pratt: She did. Why?

The Court: Why?

Mr. Pratt: Yes. What was the purpose?

The Court: I don't know.

Mr. Pratt: They were—she can speak as an expert in connection with candling.

The Court: Did you qualify her?

Mr. Pratt: I think she can qualify.

The Court: She can qualify as an egg candler.

Mr. Houck: She has candled eggs for some years.

The Court: Well, you better get a record on it if she did.

Mr. Houck: Q. You first went to work for Nye & Nissen in 1930? A. Yes, sir.

Q. During the next ten years what did you do: what were your duties there?

A. From 1930 to 1935 I worked on the floor on the odds and ends, in the processing machine and sanding machine.

Q. In other words, handling eggs in connection with those machines?

A. Yes. In 1935 I learned to candle.

(Testimony of Mrs. Josephine J. Briant.)

Q. During that period about how many eggs—the candling was done during that period from 1939 and '40?

A. Yes, while I was at work.

Q. You worked then just candling eggs during that period? A. Yes.

Q. You candled every day, is that correct?

A. That's right.

Mr. Houck: I submit that that is a sufficient foundation.

The Court: Did she ever powder any eggs before at any time?

Mr. Houck: Q. Have you powdered eggs prior to this instance you were talking about?

A. Yes.

Q. Where was that?

A. In Sacramento, when I worked for Nye & Nissen there.

Q. When was that? [2954]

Mr. Faulkner: Worked for whom?

Mr. Houck: Nye & Nissen at Sacramento.

The Witness: A. In 1936.

Mr. Houck: Q. Have you powdered eggs on more than one occasion?

A. I don't quite get——

Q. Can you give us any idea how often or what the total number of instances were?

A. No, I can't say.

Q. Was it more than fifty or less than fifty?

A. Less than fifty.

Q. More than ten?

(Testimony of Mrs. Josephine I. Briant.)

A. Oh, no, no; about that.

Q. About ten occasions you powdered eggs?

A. Perhaps.

Q. Prior to this time in September of 1940?

A. Yes.

Q. Who instructed you to powder eggs on those occasions?

Mr. Faulkner: Your Honor, I object to who instructed a person in Sacramento——

The Court: He is laying the foundation for the testimony of this witness. This goes to her expert testimony. He has qualified her. I will allow it.

Mr. Faulkner: Your Honor——

The Court: He is laying the foundation for this testimony.

Mr. Faulkner: I except to the ruling allowing a statement of some person who may have instructed——

The Court: I will allow it.

Mr. Faulkner: Exception; hearsay, not binding on the defendants. Long prior—— [2955]

The Court: It is limited to those issues.

Mr. Faulkner: Exception. [2955-a]

The Court: She testified to her ability as a powder expert, powdering eggs.

Mr. Houck: Q. Who instructed you to powder eggs on these occasions?

A. In Sacramento, Joe, the manager there.

Q. The manager at Sacramento? A. Yes.

Q. The manager of what company?

A. Nye & Nissen.

(Testimony of Mrs. Josephine I. Briant.)

Q. Did he give you the reason why the eggs should be powdered?

Mr. Faulkner: The reasons he would give would be hearsay, your Honor, as to these defendants.

Mr. Houck: I submit, your Honor, we could prove the practice of the company in powdering eggs.

Mr. Faulkner: You can't prove the practice because many years ago in Sacramento, when companies were powdering eggs on some occasions, a man in Sacramento gave her instructions about powdering eggs. The reasons would not be binding on the defendants and would not be the basis for her to testify as an expert.

The Court: I may be able to help with respect to that.

Q. Why did you powder eggs?

The Witness: A. We powdered storage eggs to take the shiny gloss of the oil off so as to give it that fresh appearance.

The Court: We will proceed now.

Mr. Houck: That is all. [2956]

Recross Examination

Mr. Faulkner: Q. Which eggs did you powder on the occasion that you referred to on your cross-examination?

A. Will you repeat that, please?

Q. Which eggs did you powder? The first cases that you candled or the second?

A. The first cases.

(Testimony of Mrs. Josephine I. Briant.)

Q. Did you powder the second? A. No.

Q. The first cases are the cases that the man came in right after, a few minutes—some time of the day and examined, according to your testimony?

A. He inspected the ones that were powdered.

Q. He what?

A. He inspected the eggs that we had powdered.

Q. In other words, the eggs that you put the powder on were eggs that on the very day you put it on a man came in from the Veterinary Corps and examined, isn't that right?

A. That is right, but it was our business to see that that powder got on there evenly where it would not show.

Q. In other words, you have to put it on just so it won't show. Did you dip it? A. No.

Q. Did you use a powder puff? A. No.

Q. How did you do it?

A. We used a feather duster, dusted over it, and then had a little mop that went over the egg. We picked it up with our hands, worked it this way, candled it, and put them where they belonged.

Q. You did all that on this morning before the lieutenant came in. You remember that very clearly? A. Yes, I do that.

Q. About how many eggs did you put the feather duster on?

A. I don't remember how many cases we candled.

Q. What kind of powder did you use?

(Testimony of Mrs. Josephine I. Briant.)

A. I don't know the name of the powder. It was just powder.

Q. Now, can there be any question about this, that when you put the powder on the eggs, no matter how deft your hand may be with a duster, that the minute the man takes the egg up he gets powder on his hand? A. No.

Q. This powder does not come off, is that it?

A. You just rub it over very lightly; you don't need to shove the eggs in the sack.

Q. I will show you an egg. If you powder that egg, a half-hour later if you pick it up the man who picks it up will get powder on his hands, won't he? A. No.

Q. He won't?

A. Because you work your egg like this and work the powder around very lightly, and you don't pick the powder up.

Q. It is done so skilfully that a man gets no powder on his fingers handling a hundred eggs in a case, is that right? A. That is right.

Q. Is that what you did on that morning?

A. We powdered and candled those eggs.

The Court: Is that all from this witness?

Mr. Faulkner: That is all, your Honor.

The Court: You may step down.

Mr. Faulkner: Q. Oh, one question. Who brought you in contact with the Department of Justice? Your husband in the Veterinary Corps or did you go by yourself? A. I don't know.

Mr. Faulkner: That is all.

Mr. Houck: Miss Valdez.

MRS. MARIE H. VALDEZ

was called as a witness on behalf of the Government and sworn.

The Court: How many more witnesses has the Government got?

Mr. Pratt: I beg your pardon?

The Court: How many more witnesses has the Government got?

Mr. Pratt: This next one and one more. That is all.

Mr. Houck: Two more; three altogether.

Mr. Faulkner: Mr. Hippeli phoned me this morning and told me he would not rest until Wednesday.

Mr. Hippeli: I said we would not get through today.

Mr. Pratt: I was hoping we would get through with the Government's case today.

The Court: I promise you we will. Proceed.

Mr. Pratt: Just a moment, if the Court please. We will [2959] put on another witness, our last witness, instead of putting this lady on.

The Court: Very well, call him.

Mr. Faulkner: If a witness is called I think she should be examined.

The Court: She may be excused. Call your witness. It is now twelve o'clock. The jurors may be excused until two.

(Thereupon a recess was taken until two o'clock p.m.)

Afternoon Session, March 15, 1946, 2:00 p.m.

The Court: Waive the roll call; stipulated all the jurors are present in the box. Proceed.

ADAM THOMAS ANDRADE,

called on behalf of the Government; sworn.

Direct Examination

Mr. Pratt: Q. Will you state your name, please? A. Adam Thomas Andrade.

Q. Adam Thomas Andrade?

A. That is right.

Q. Your home is here in San Francisco, is it not? A. Yes, sir.

Q. What is your present employment, Mr. Andrade? A. Used car salesman.

Q. Did you formerly work for Nye & Nissen?

A. Yes, sir.

Q. During what period of time?

A. As far back as I can recollect; I think it was from 1931 until 1940.

Q. And during the early part of that employment what did you do?

A. Well, I first started to work at the plant at 324 Townsend Street under the employment of Coast Egg, which my duties were to help the fellow there by the name of Phil Sidell breaking eggs, doing a little candling, and delivering with a little panel truck that he had.

Q. How long did you work inside the plant?

A. For Sidell I [2960] think that I worked for

(Testimony of Adam Thomas Andrade.)

him for about, oh, I would say, for about a year and a half to two years.

Q. And who was Sidell?

A. He was the fellow that originally owned the Coast Egg, which was an egg company.

Q. Did it have anything to do with Nye & Nissen? A. As far as my recollection, it did.

Q. Disregarding that, later during the course of your employment you drove a truck, did you not?

A. That is right.

Q. When did that part of your employment start?

A. I think that I went outside, that is, I took over the truck driving job in 1935.

Q. And from that time on until your employment ended did you drive a truck?

A. I drove the truck, yes, sir.

Q. During the time you were driving this truck what sort of truck was it?

A. It was an old White truck with overloading springs on it and oversized tires.

Q. What was the capacity in cases of eggs in a load? A. One hundred and fifty cases.

Q. While you were employed as a truck driver during that period did you also work in the plant?

A. Yes, sir.

Q. During what times?

A. Well, sometimes Mr. Goddard wouldn't have anything for me to deliver the first thing in the morning and I would do various jobs in the plant, as far as opening up cases, relabelling cases, helped

(Testimony of Adam Thomas Andrade.)

the inspector to inspect eggs, worked back in the candling room, the butter [2961] room or the breaking room.

Q. You did almost everything that was to be done? A. Everything in the plant, yes.

Mr. Faulkner: That is a pretty broad statement, Mr. Pratt.

Mr. Pratt: Q. In the way of ordinary labor?

A. Yes, sir.

Q. Did you do enough candling to become an expert in that line?

A. No, I wouldn't say that I became an expert at it. For Nye & Nissen themselves I didn't do any candling. All I did was a little candling for Coast Egg, which was Phil Sidell, which was in back of the plant.

Q. And had nothing to do with Nye & Nissen?

A. Not at the time, no, sir.

Q. During this period of time—and you say you left in 1940? A. Yes.

Q. What part of 1940?

A. As I can recall, it was the latter part of 1940, around November.

Q. In November of 1940. During the time that you were there working for Nye & Nissen around the plant did you ever see in the possession of any of the employees, namely, Mr. Moncharsh or Mr. Goddard or Mr. Berman or Mr. Menges, a rubber stamp similar to the rubber stamp used by the Department of Agriculture inspectors?

A. Yes, I did.

(Testimony of Adam Thomas Andrade.)

Mr. Faulkner: Just a moment. We object to that until the time and place is fixed and who was present at the time. [2962]

Mr. Pratt: Q. When did you first see such a stamp? A. Around part of 1935.

Q. And in whose possession was the stamp at that time?

A. In the possession of James Nix.

Mr. Faulkner: We went through this on the examination of Mr. Pineda and the Court limited any testimony to the period in the indictment.

Mr. Pratt: It comes up to that point with the next question.

Mr. Faulkner: Then we ask that the answer to that question go out.

The Court: Read the question and answer.

(Record read.)

The Court: Let the question and answer stand. Proceed.

Mr. Faulkner: Your Honor ruled in my favor before that they confine themselves to January 1, 1938, subsequent to that date.

The Court: It is just the fact that this is the first time he saw this stamp in question, 1935. Proceed.

Mr. Faulkner: Exception.

Mr. Pratt: Q. Did you see that stamp during the period from 1938 up to the time that you left in 1940? A. Yes, sir.

Q. Were you familiar at that time with the

(Testimony of Adam Thomas Andrade.)

form of the Department of Agriculture stamp used by inspectors of the Department?

A. Yes, sir. [2963]

Q. I will ask you to look at this stamp I am showing you together with an impression of that stamp. Can you state whether a stamp of that character was used by the Department of Agriculture inspectors during the period from 1938 to the time you quit? A. Yes sir.

Mr. Pratt: I would like to offer the stamp and the impression in evidence.

Mr. Faulkner: May I see it, Mr. Pratt? May I ask the man a question about this?

Q. Is this a stamp that you say is similar to a stamp that a Department of Agriculture man used from 1938 to 1940? A. Yes.

Q. It is merely similar? A. Yes sir.

Mr. Faulkner: We object to it as incompetent, irrelevant and immaterial, your Honor.

The Court: Let it be admitted and marked. The objection is overruled.

Mr. Faulkner: Exception.

(The stamp in question was thereupon received in evidence and marked U. S. Exhibit 175).

Mr. Pratt: Q. Did you see a stamp in the possession of Mr. Moncharsh similar to this?

A. Yes sir.

Q. When.

A. This one particular incident was about in the middle of—was it 1940—it was just before the

(Testimony of Adam Thomas Andrade.)

Democratic convention when President Roosevelt was running for the third [2964] term along with Harry Wallace as Vice-Presidential candidate. There was about five hundred case of eggs being——

Mr. Faulkner: He is merely fixing the time. May I have the answer read, your Honor?

(Answer read.)

The Court: Q. What year was that, do you recall?

A. That was the year 1940.

Mr. Pratt: Q. That is right. You say just before the Democratic convention——.

A. That is right.

Q. ——in which President Roosevelt was nominated for a third term? A. That is right.

Q. Did you ever see this stamp that has been referred to in the possession of the defendant Berman? A. Yes sir.

Q. When? A. At various occasions.

Q. Did you ever see it in the possession of the defendant Goddard? A. Yes sir.

Mr. Faulkner: We ask that the answer "on various occasions" go out, your Honor.

The Court: "Various occasions" is indefinite. Fix the time.

Mr. Pratt: Q. When did you see it in Mr. Berman's possession?

A. Well, as far as fixing a definite time—it is very hard to fix a definite time, your Honor.

The Court: If you can't fix a time, say so. [2865]

(Testimony of Adam Thomas Andrade.)

The Witness: I can't fix a definite time.

Mr. Pratt: Q. How many times did you see it in Mr. Breman's possession?

Mr. Faulkner: If he can't fix the time, your Honor, it is not fixed within the charge laid in this courtroom, it is not admissible and we object to it.

Mr. Pratt: I will reframe the question.

Q. Did you see this stamp in possession of Mr. Berman between the first of January, 1938, and the time you left in November of 1940?

A. Yes sir.

Q. On how many occasions?

A. On various occasions.

Q. Did you ever see the stamp in the possession of the defendant Goddard during that same period?

A. Yes sir.

Q. On how many occasions?

A. On various occasions, maybe twice a day.

Q. Did you ever see it in the possession of the defendant Menges? A. Yes sir.

Q. During that same period? A. Yes, sir.

Q. On how many occasions?

A. Whenever Mr. Goodard would give it to him.

Q. Where was this stamp kept, if you know, during that period?

A. That period——

Q. From January 1, 1938, to the time you left the employ?

A. Well, up until the time of 1938 I think that Mr. Goddard still had possession of the stamp in his office downstairs. [2967] After that the stamp

(Testimony of Adam Thomas Andrade.)

was transferred to the upstairs office and locked in the safe.

Q. How do you know?

A. Because I seen it. I seen the stamp go up to the office and I seen Mr. Goddard go up and get the stamp from the top office to bring it downstairs so that we could use it.

Q. During this period was this stamp ever in your possession? A. Yes sir, it was.

Q. And from whom did you get it?

A. From Mr. Goddard.

Q. Do you know where the stamp came from, its original source?

A. As far as I know about it, the first time that I ever heard about the stamp was from conversation that Jim Nix had with Waldimar.

Q. Were any of these defendants here present at that time?

A. At the time that that conversation went on, no sir.

Q. Did you ever have any conversation with any of these defendants on trial as to the origin of this stamp, where it came from?

A. No sir. I never did.

Q. In connection with your employment as a truck driver there for this concern did you know a man by the name of Smiley?

A. Harry Smiley, yes sir.

Q. And who was Harry Smiley?

A. Harry Smiley was a truck driver out of Petaluma.

(Testimony of Adam Thomas Andrade.)

Q. Did you ever see Harry Smiley at the plant here in San Francisco?

A. Yes sir. [2967]

Q. Do you remember any occasion when you assisted him in delivering loads of eggs with his truck at any place on the waterfront here in San Francisco? A. Yes sir.

Q. Were there many occasions when that occurred?

A. Yes sir, an average of three times a week.

Q. Where did he come from?

A. Most of the time he came out of Petaluma.

Q. And when he came from Petaluma where did he bring his truck and his load?

A. At times we used to meet him at the dock and at other times he used to come directly to the plant, at 224 Townsend Street.

Q. What did you do in connection with any of these loads?

Mr. Faulkner: We object to that as not binding upon the defendants. None of the defendants were present. Harry Smiley is not a defendant.

Mr. Pratt: I will connect it.

Mr. Faulkner: You can't connect a man being present if he is not there.

The Court: Lay the foundation.

Mr. Pratt: I am asking him whether on the occasions when he was with Smiley what he did in assisting Smiley with his loads. That is all.

The Court: Fix the time.

Mr. Pratt: I will withdraw the question.

(Testimony of Adam Thomas Andrade.)

Q. Do you remember an occasion in 1938 when Smiley came down [2968] from Petaluma with a load of cases of eggs and came down to the plant on Townsend Street?

A. I don't seem to get the question.

The Court: Read it, Mr. Reporter.

(Question read.)

The Witness: A. Well, there is one particular occasion, yes sir.

Mr. Pratt: Q. When was that?

A. That was about in the summer of 1938, about in the middle part of 1938.

Q. About the middle of 1938. On that particular occasion did you have any conversation with the defendant Ruby Goddard?

A. Well, Smiley——

The Court: Answer the question yes or no.

A. Yes.

Mr. Pratt: Q. What was said by Mr. Goddard to you on that occasion?

Mr. Faulkner: We object to that, if the Court please, on the ground that there is no evidence in this case that there was a conspiracy of any kind, character or description laid after nine weeks of trial and in existence between these defendants in the year 1938. You Honor knows under the rules of court that the manner in which a conspiracy is to be determined is not from the indictment but from the evidence, and we have been here over eight weeks and there is not a single [2969] scintilla of evidence of a conspiracy in existence in that year.

(Testimony of Adam Thomas Andrade.)

We have testimony of the year 1939. We have testimony in the year 1940. And whether that testimony does or does not show a conspiracy, I won't argue that point at this stage of the case. There is no evidence of a conspiracy in existence in the year 1938, so the acts of Mr. Goddard could not be admissible under any theory of law to show that it was done pursuant to a conspiracy until the Government has established one, and I submit the objection. I would assume that anything they have on the subject they have produced, having in mind the statement that this is their last witness, and therefore the evidence would be inadmissible.

Mr. Pratt: If the Court please, a conspiracy has been established in this case, and let me assume that what Mr. Faulkner says is true, that the period of the conspiracy as established by the proof does not extend earlier than the year 1938; nevertheless, any conversation which this witness had with one of these defendants which is germane to the transactions described in other evidence and covered by the period of the indictment is clearly admissible.

The Court: The objection is overruled. Note an exception.

Mr. Faulkner: Exception.

Mr. Pratt: Now, will you read the last question?

(Question read.)

Mr. Faulkner: This is offered solely against Mr. Goddard? [2970]

Mr. Pratt: Against Mr. Goddard alone.

(Testimony of Adam Thomas Andrade.)

Mr. Faulkner: I except to that, too, your Honor.

The Court: Note an exception. Overruled. Proceed. Read the question again, Mr. Reporter, so the witness will understand it.

(Question reread.)

The Witness: A. Do I have to start from the time Mr. Goddard spoke to me or from the time——

The Court: Q. Did you have a conversation with him at that time and place?

A. Yes sir.

Q. Tell the Jury what the conversation was.

A. Mr. Goddard told me to go with Mr. Smiley with this particular load of eggs, which if I remember correctly, was being delivered to Fort Mason, that is——

Q. Speak up so they can all hear you.

A. The United States Transport Docks. He handed me the papers, from which they have bill of lading machines—I think, if I remember correctly, a full truck and trailer load of 749 cases, and he told me Harry Smiley would tell me what to do. So we proceeded to the United States Transport Docks at Fort Mason.

Mr. Faulkner: This is not responsive to the question.

The Court: You will have to speak louder. Counsel are entitled to hear what you have to say as well as the Jury.

Mr. Faulkner: He is over on the dock now.

The Court: Just a moment. Read the question. [2971]

(Testimony of Adam Thomas Andrade.)

(Question and answer read.)

Mr. Faulkner: That is not part of the conversation, your Honor.

Mr. Pratt: Q. What did you do then? I will withdraw the other question. What did you and Smiley then do?

Mr. Faulkner: We object to this as incompetent, irrelevant and immaterial. Mr. Goddard handed him some papers and told him to go to a dock. Now, what happened on the dock is hearsay as to the defendants. He merely told him to go to the dock and gave him a paper.

The Witness: Mr. Goddard told me that Harry Smiley would tell me how to unload the eggs.

Mr. Faulkner: Just a moment.

The Court: Just a moment.

Mr. Pratt: I will reframe the question.

Q. What else did Mr. Goddard tell you with regard to this load of eggs? Did he tell you——

A. Well, I don't seem to get the question.

The Court: Read the question, Mr. Reporter.

(Question read.)

The Witness: He told me to go with Smiley, that Smiley would tell me what to do as far as unloading the truck was concerned, which there was some samples——

Mr. Faulkner: Just a moment.

Mr. Faulkner: Q. Is this the conversation?

A. That is right. [2972]

Mr. Faulkner: That is not the conversation.

(Testimony of Adam Thomas Andrade.)

Mr. Pratt: Yes it is.

The Witness: He would tell me—Harry Smiley knew how the load was loaded and he would tell me how to place the samples out to the dock.

Q. Did he say what he meant by using the word "samples"?

Mr. Faulkner: We object to that as leading and suggestive, your Honor.

The Court: He may answer.

Mr. Faulkner: Exception.

The Witness: Will you repeat that again, please?

(Question read.)

The Witness: Did Mr Goddard know what it meant?

Mr. Pratt: Q. Did he tell you what he meant by using the word "samples"?

A. Well, using the word sample is the top——

Mr. Faulkner: We object to this unless Mr. Goddard told him.

The Witness: Yes, Mr. Goddard told me.

Mr. Pratt: Q. What did he say?

A. As I said before, he told me that Harry Smiley would tell me how to unload the truck, that he would hand me down the eggs that were supposed to go on the bottom and the samples that were supposed to go on top.

Q. Then you went to the dock with Smiley, did you? A. Yes sir.

Q. And this load of eggs?

A. Yes sir. [2973]

(Testimony of Adam Thomas Andrade.)

Q. And how did you unload them, you and Smiley?

Mr. Faulkner: We object to that as hearsay and not binding upon the defendants.

The Court: The objection is overruled.

Mr. Faulkner: Exception.

The Court: Note an exception.

The Witness: A. The reason why I remember this particular thing——

Mr. Faulkner: If your Honor please, this is not in the presence of the any defendant.

The Court: It does not necessarily have to be. Proceed. The Court has ruled.

Mr. Faulkner: Exception.

The Witness: A. The reason why I remember this——

Mr. Pratt: Q. No, no, what did you do down there at the dock, Mr. Andrade?

A. We unloaded the eggs.

Q. How?

A. There was cutouts in this particular load, one case of cutouts. Harry Smiley would give me the first case, which was cutouts.

Q. Was he on top of the load?

A. Yes sir.

Q. And you were where?

A. On the top.

Q. Go ahead.

A. ——give me a case of cutouts, which was the bottom case on the floor; then there was three cases of ordinary eggs that went on top of this one case.

(Testimony of Adam Thomas Andrade.)

of cutouts, and the top case, which would be five high, would be a sample case for the [2974] inspector to look at.

Q. Was the whole truckload of eggs unloaded on the dock in that manner? A. Yes sir.

Q. Do you remember an occasion in 1939 when certain eggs were hauled by you to Pier 56?

A. Yes sir, I do.

Q. When was that?

A. As I can recall, it was around the latter part of 1939, either the middle of 1939 or the latter part of 1939. There was a load of about a thousand cases of eggs.

Mr. Faulkner: This is all volunteered. He is asked if he remembered an occasion.

Mr. Pratt: Q. This occasion that you recall was for a delivery of eggs at Pier 56, wasn't it?

A. That is right.

Q. And how many cases of eggs were delivered there?

A. As I can recall, it was a thousand cases.

Q. And for whom?

A. It was for the Navy.

Q. How do you recall the time of this occurrence?

A. Well, the shipment of eggs was going to the USS Worth, and at the time—it was about the time the conflict over in Europe. We were talking about it, and this particular officer on the USS Worth and I got to talking.

(Testimony of Adam Thomas Andrade.)

Q. And that recalls the incident to your mind, does it? A. Yes sir.

Q. Now, you say that there were a thousand cases of eggs? A. Yes sir. [2975]

Q. For overseas shipment. On that occasion in connection with that incident how many eggs did you deliver?

Mr. Faulkner: We object to that as hearsay, if your Honor please. No defendant has been tied in with this transaction.

Mr. Pratt: We will tie him in. It is preliminary, if the Court please.

Mr. Faulkner: Whether preliminary or not, how could this bind the defendants?

Mr. Pratt: I will withdraw the question.

Q. In connection with that transaction did you have any conversation with any of the defendants in this case?

A. Well, the only—yes, I had a conversation.

Q. How was that?

The Court: With whom?

Mr. Pratt: Q. With whom?

A. The conversation was with Mr. Goddard directly.

Q. How? Did you talk to him personally, over the telephone or how?

A. Talked to him personally. It was after—if I may explain——

The Court: Where was this?

Mr. Pratt: Q. Whereabouts?

A. At 324 Townsend.

(Testimony of Adam Thomas Andrade.)

Q. Then after you were there on this pier were you back at the warehouse of Nye & Nissen?

A. Yes sir.

Q. What if any conversation did you have with Mr. Goddard on that occasion?

A. Well, it was in regards to one hundred [2976] and fifty cases of eggs that I brought back.

Q. What did you say to him?

Mr. Faulkner: Same objection as made to the prior conversation.

The Court: The objection is overruled.

Mr. Faulkner: Exception.

The Witness: A. I told him that Dave Mooseman had been down at the dock and got hold of this particular one hundred and fifty cases of eggs, and that he told me to bring it back, and in return we exchanged the eggs and took another one hundred and fifty cases down.

Mr. Pratt: Q. What did Mr. Goddard say to you?

A. He just told me to take this particular one hundred and fifty cases back down to the dock and let Mr. Mooseman look at them.

Q. The same cases? A. No sir.

Q. Another hundred and fifty cases?

A. That is right.

Q. Do you know how these hundred and fifty cases were stamped?

Mr. Faulkner: Which one hundred and fifty?

Mr. Pratt: Q. The cases that you took back?

A. Yes sir.

(Testimony of Adam Thomas Andrade.)

Q. How were they stamped?

A. They were stamped with the counterfeit Department of Agriculture stamp.

Q. Is that the stamp that you referred to here?

A. Yes sir.

Q. Which is now marked Exhibit 175?

A. Yes sir.

Q. When were those one hundred and fifty cases stamped with this stamp that you referred to as counterfeit? [2977]

A. They were stamped at the plant at 324 Townsend after the Department of Agriculture had looked at sample cases and had left the plant; then the employees, myself included, had stamped the cases.

Q. Under whose direction and orders?

A. Not one specific person, but Mr. Moncharsh used to tell us——

Q. I am talking about this particular occasion in 1939? A. Yes.

Q. You say the 150 cases which you took back, you had seen them stamped with this counterfeit stamp? A. Yes.

Q. And whom did you see stamp them?

Mr. Faulkner: With what counterfeit stamp? There is no evidence of a counterfeit stamp. You have identified the stamp as identical with the Department of Agriculture stamp. That is your testimony. We object to the reference to the counterfeit stamp.

The Court: The objection is sustained. Proceed.

(Testimony of Adam Thomas Andrade.)

Mr. Pratt: Q. Did you see these cases stamped with the stamp which you testified to, which was similar to Government's Exhibit 175?

A. Yes sir.

Q. In whose possession was that stamp in the stamping of these 150 cases?

A. Well, these 150 cases, as far as signifying out the 150 cases, sir, the whole lot was worked that way, and at various times it was either Mr. Berman, Mr. Moncharsh or Mr. Goddard or myself or James Nix that stamped the whole [2978] lot of eggs—the whole transaction while the eggs were being put up.

Q. You mean this thousand cases of eggs?

A. Yes sir.

Q. When was that done? When were they stamped in the manner that you have described?

A. They were stamped after the inspector had left the plant.

Q. Had the inspector stamped any cases that you observed?

A. Not these particular cases here. He stamped the flat of samples that were given to him for that purpose.

Q. And who gave him a flat of samples for the purpose of inspection?

A. Well, we all used to give him the flat of eggs—rather, after the eggs came out of the candling room, they were placed on a board, on a flat board, and we have a dolly, which has a hydraulic jack, that we lift this board with, and we brought it

(Testimony of Adam Thomas Andrade.)

from the back of the plant to the front of the plant by the office where the inspector got his work.

Q. On how many occasions did the inspector come to inspect eggs in connection with this shipment of a thousand cases for the Navy?

A. At various times.

Q. Over how long a period?

A. Anywhere from a week to a week and a half.

Q. Was that in your presence?

A. Yes sir, at different times.

Q. Who else was present at the time these cases, so-called samples, were inspected by the Department of Agriculture man? [2979]

A. Mr. Goddard would be there, Mr. Moncharsh at various times.

Q. After a flat of samples was inspected on this particular occasion relating to these thousand cases of eggs, what was done with the stamps that were on the cases that the inspector approved?

A. After the inspector passed this particular lot of eggs, these thirty cases, he would proceed and leave the plant, and then Mr. Goddard or Mr. Berman or Mr. Moncharsh would tell me or Henry Pineda or Jim Nix—it didn't make any difference who it was—to take this lot of eggs either to the back of the plant or into the ice box. If they were on a label—if the cases had a label, we would scrape the label with a hand scraper, and then we would relabel the case. If the case was a new case and didn't have no label and the stamp was put on the cleat of the case, then we would take an electric

(Testimony of Adam Thomas Andrade.)

buffer, which is on the order of an electric drill with a wheel on it, and it has an emery wheel attached to it, and we would buff that stamp off, take our hands or a whisk broom or a rag and wipe the floor with it a little bit, get the dust and rub over the cleat where we buffed the stamp off.

Q. On whose orders did you do this?

A. As I said before, I have taken orders to do that from Mr. Moncharsh——

Mr. Faulkner: He isn't talking about a particular transaction at all, your Honor.

Mr. Pratt: I am talking about a particular transaction relating to a thousand cases of Navy eggs. [2980]

The Witness: Mr. Moncharsh gave me them orders, Mr. Goddard gave me them orders, and Mr. Berman gave me them orders through Mr. Goddard.

Mr. Faulkner: Only one man can give the order. Now he has three people giving a single order.

The Court: The Jury has the testimony. I will allow it.

Mr. Faulkner: I object to the question and ask that the answer go out. The question is who gave him the order.

The Court: The objection is overruled.

Mr. Faulkner: Exception.

Mr. Pratt: Q. After the stamp were scraped off this flat of samples what did you do with those thirty cases on the flat that had been inspected and stamped previously?

A. Them thirty cases, as I said, the stamps were

(Testimony of Adam Thomas Andrade.)

scraped off. If the inspector had looked at these thirty cases in the morning, around say nine o'clock or ten o'clock, then Mr. Goddard would in turn call the Department of Agriculture up again and tell them around two o'clock that he had thirty cases of eggs to be inspected towards that order. The same thirty cases that he had inspected in the morning he would inspect again at two o'clock in the afternoon.

Q. And when they were inspected a second time by the inspector—and who was the inspector?

A. Most of the time it would be Dave Moosemman.

Q. Mr. Moosemman, and after he had inspected the same cases a [2981] second time what was done with those cases?

A. Sometimes we used to use them again for other orders. It would all depend how long they stood by.

Mr. Faulkner: We will ask that that go out as not responsive.

The Court: It may go out.

Mr. Pratt: Q. When the inspector finished inspecting those thirty cases on the second occasion, were those cases then stamped with the Department of Agriculture stamp? A. Yes sir.

Q. By whom?

A. It would be either by Ruby Goddard or by myself or by Menges or Nix.

Q. I am talking about the cases——

(Testimony of Adam Thomas Andrade.)

Mr. Faulkner: We ask that that go out as not responsive.

The Court: It may go out. The Jury will disregard it.

Mr. Pratt: Q. I am asking about the cases which Mooseman or the other inspector inspected a second time and appproved them. What did the inspector do with regard to those thirty cases of eggs? A. He stamped them up.

Q. And what did you then do with those thirty cases?

A. Took them in the back and scraped the stamps off again.

Q. And then what?

A. And then we relabelled them if they were labelled, or if they were not labelled we left them as they were and then used them again for various orders.

Q. Who directed you to take the stamps off by scraping on the [2982] second time they had been inspected.

A. Well, Mr. Goddard would tell me what to do most of the time.

The Court: Most of the time is indefinite. It will go out and the Jury will disregard it.

Mr. Faulkner: And the words "he would."

Mr. Pratt: Q. I am talking about this particular order of a thousand cases for the Navy. You have mentioned the fact that a tray of thirty sample cases was twice inspected by Mooseman or

(Testimony of Adam Thomas Andrade.)

another inspector of the Department of Agriculture?

A. Mr. Goddard told me in that particular instance.

Q. Mr. Goddard told you. During this time that the inspector came to examine eggs for this thousand-case Navy order, how many times did Mooseman or whoever the inspector was—how many times did he come to inspect eggs in connection with that large order?

A. I would say that he came about twice a day.

Q. For how long?

A. For a limited time of about a week.

Q. Do you know how many times he inspected the same lot of thirty cases of eggs?

A. Definitely I don't know how many times, but I know definitely that he inspected them more than once.

Q. After he had inspected the cases, the flats, the sample cases, the first time, what, if anything, did you do, or what if any, orders were you given in regard to stamping any cases? Do you understand me?

A. No, I do not. [298?]

Q. You spoke of scraping the stamps off the cases that the inspector had inspected and approved. Were there any other cases stamped by you at that time? A. Yes, sir.

Q. How many?

A. Well, stamped this particular thirty cases.

(Testimony of Adam Thomas Andrade.)

In other words, the thirty cases to represent this thirty cases that the Government had stamped.

Q. And what thirty cases did you stamp?

A. Thirty cases of ordinary eggs.

Q. And on whose order did you stamp those cases? A. Under Mr. Goddard's orders.

Q. And with what did you stamp them?

A. With this counterfeit stamp.

Mr. Faulkner: We ask that that go out.

The Court: The word "counterfeit" may go out.

The Witness: With this duplicate.

Mr. Pratt: Q. You refer to the stamp which is marked Exhibit 175? A. Yes, sir.

Mr. Faulkner: He can't refer to that stamp. He says that is merely similar to it.

Mr. Pratt: It is sufficiently described, I think, if the Court please.

Q. Who delivered these thousand cases of eggs to the Navy? A. I delivered most of them.

Q. You say your truck held how many cases?

A. 150 cases.

Q. Do you remember how many of the loads covering these thousand [2984] cases you yourself delivered?

A. Offhand I would say from five to seven loads.

Q. And at what pier was that? A. 56.

Q. Do you remember any occasion in the year 1939 when you delivered eggs to the Presidio?

A. Yes, sir, I do.

Q. And when? Do you remember any specific

(Testimony of Adam Thomas Andrade.)

incident during the year of 1939 of delivering eggs to the Presidio?

A. It was about the middle of 1939 that I delivered a load of eggs out to the Presidio.

Q. How many eggs were in that load?

A. Oh, I would say anywhere from 35 to 65 cases.

Q. Whom did you see when you delivered them at the Presidio?

Mr. Faulkner: We object to that as hearsay as to the defendants.

Mr. Pratt: I will connect it, if the Court please.

Mr. Faulkner: Irrelevant and immaterial.

Mr. Pratt: I will connect it. I will withdraw the question.

Q. In connection with this transaction of delivering these, you say 30 to 65 cases, at the Presidio, did you have any conversation with the defendant Ruby Goddard? A. Yes, sir, I did.

Q. How was that conversation had?

A. Over the phone.

Q. And what was the occasion? Did you call him over the telephone or did he call you?

A. I called him.

Q. What was said over the telephone? [2985]

Mr. Faulkner: Same objection, your Honor, incompetent, irrelevant and immaterial and hearsay as to the defendants.

The Court: The objection will be overruled. Note an exception.

Mr. Faulkner: Exception.

(Testimony of Adam Thomas Andrade.)

The Witness: The conversation was that this particular load of eggs was rejected.

Mr. Pratt: Q. Did you tell him by whom?

A. By Colonel Deane.

Q. Did you tell him why Colonel Deane had rejected the eggs? A. Yes, I did.

Q. What did you tell him?

A. I told Mr. Goddard that Colonel Deane had rejected the eggs for the simple reason that they were not up to Army specifications, and Mr. Goddard then—Colonel Deane talked to Mr. Goddard—rather, at this conversation Mr. Goddard told me to take this particular load of eggs and not bring it back to the plant, but drive outside the gate of the Presidio Post Exchange, shift my load, wait until the veterinary—which is nothing but a sergeant—they used to go to eat at eleven-thirty—for me to get there about ten or fifteen minutes before he went to dinner so that he would be in a hurry and pass the same load.

Q. During the time that you had this conversation over the telephone with Ruby Goddard, was Colonel Deane present?

A. Colonel Deane spoke to Mr. Goddard. [2986]

Q. Over the telephone? A. That is right.

Q. Was that previous to your talking to Mr Goddard or afterwards. A. That was after.

Q. He talked to you after you talked to him?

A. That is right.

Q. What did you do in reference to these instructions from Mr. Goddard?

(Testimony of Adam Thomas Andrade.)

Mr. Faulkner: Same objection: hearsay as to defendants, your Honor.

The Court: The objection is overruled.

Mr. Faulkner: Exception.

The Witness: I proceeded with the orders that he gave me. I drove the truck outside the gate, rearranged my load, came back close to the 11:30 mark, backed up against the platform, and I had the length of the truck—the width of the truck would be samples on top. The inspector came out and grabbed a case, took it in, looked at a couple of eggs out of about three fillers, and he said, "Stamp them up". I unloaded them and I stamped them up and they passed.

Mr. Pratt: Q. Did you have any delivery receipt at that time? A. Yes, sir.

Q. And was that signed by somebody there at the Presidio?

A. Signed by the fellow that done the receiving.

Q. And what did you do with that?

A. I returned it to the plant and gave it to Ruby, to Mr. Goddard.

Q. Do you remember another delivery of eggs at the Presidio [2987] about that same time, the year 1939? A. Yes, sir, I do.

Q. How do you remember that incident?

A. Well, I remember this incident because the last—before I left this particular inspector was Colonel Kielsmeier, and he was deformed on one side of the face.

Q. Did you have any conversation in connection

(Testimony of Adam Thomas Andrade.)

with that transaction with either Mr. Moncharsh or Mr. Goddard? A. Yes, sir, I did.

Q. Tell how that occurred.

Mr. Faulkner: We do not know who he had it with yet.

Mr. Pratt: Q. All right. With whom did you have it?

A. I had the conversation with Mr. Moncharsh.

Q. How was that?

A. Colonel Kielsmeier rejected this particular load of eggs.

Mr. Faulkner: That is not part of a conversation, your Honor.

Mr. Pratt: Did you call Mr. Moncharsh?

A. Yes, sir.

Q. What did he tell you?

A. I didn't call Mr. Moncharsh. I called Nye & Nissen.

Q. Who did you talk to?

A. Mr. Monchash answered the phone.

Q. What did you say to him?

A. I told Mr. Moncharsh that this load of eggs had been rejected at the Presidio by Colonel Kielsmeier.

Q. And then what occurred?

A. Mr. Moncharsh asked me if there was any possible way that I could pass the load. And I [2988] told him no, for the simple reason that Colonel Kielsmeier wanted to look at these eggs at the plant. So then Mr. Moncharsh told me to

(Testimony of Adam Thomas Andrade.)

bring the load back, and as I went up Townsend Street, if there was any——

Mr. Faulkner: This is not the conversation.

Mr. Pratt: Q. Is this the conversation?

A. That is right, still on the conversation. Mr. Moncharsh told me if there was any Army car parked in front of the plant or inside of the plant, which there was truck stalls, for me not to back in, but continue going up Fifth Street to Bluxome and park in back of the plant, and that in return, when Kielsmeier, or whoever would be there, would leave the plant, then someone would come in the back, and there was a screen door in the back, would tell me then to come around the front door, back in, and unload the eggs. That was the conversation that Mr. Moncharsh told me over the telephone.

Q. Did you drive your truck back?

A. Yes, sir, I did.

Q. When you got back by the plant what did you do?

A. I looked in and there was no Army car, so I proceeded to back my truck in. After I backed my truck in Mr. Moncharsh personally even pulled the stakes off the truck before I hardly even got off the truck. He pulled one case out, which was supposed to be a sample. He took it over by the desk where he done some of his candling.

Q. What did he do?

A. He flashed some eggs out of this [2989] par-

(Testimony of Adam Thomas Andrade.)

ticular case, which was one of the samples which was rejected.

Q. And what did he say?

A. He said that they were beautiful eggs, that them guys out there didn't know what they were doing.

Q. Did Colonel Kielsmeier appear at the plant?

A. Yes, sir, he did come down after I backed the truck in.

Q. And what happened then?

Mr. Faulkner: Who was present, Mr. Pratt?

Mr. Pratt: Q. Who was present?

A. Who presents?

Q. When Kielsmeier came, who was present?

A. Myself, Mr. Moncharsh and Mr. Goddard.

Q. What occurred?

A. Mr. Kielsmeier came over, walked over towards Mr. Moncharsh, and Mr. Moncharsh told him that they were beautiful eggs, he couldn't see why he rejected the eggs. Mr. Kielsmeier told him he didn't want them eggs. He didn't want them kind of eggs delivered out to the post at any time when he was holding inspections. So after Colonel Kielsmeier left the plant Mr. Goddard asked Mr. Moncharsh what to do with the load.

Q. Were you there?

A. Yes, sir, all the time.

Q. What did Mr. Moncharsh say?

A. Mr. Moncharsh told Mr. Goddard to take the two sample cases that Colonel Kielsmeier looked at and replace them with two new samples

(Testimony of Adam Thomas Andrade.)

and for me to proceed out to the Post Exchange about two-thirty, quarter after [2990] two, for the simple reason that the deadline of the receiving at the Post Exchange was three o'clock in the afternoon. Therefore, the Colonel, whichever one might have been—which in this instance——

Mr. Faulkner: This is not the conversation.

Mr. Pratt: Q. Was this the conversation?

A. Yes.

Q. Go ahead.

A. Mr. Monfelarsh told Mr. Goddard not to send me out before that time; that that would give us a chance that if the Colonel was going to be around there, he wouldn't be around there after two or two-thirty.

Q. After what time?

A. After two or two-thirty in the afternoon. That is the conversation.

Q. Then what did you do?

A. Well, as far back as I can tell, I think it was around two o'clock, Mr. Goddard told me to take the eggs back out to the Presidio.

Q. The same eggs?

A. The same eggs with a difference of two cases.

Q. And what were these two cases?

A. These two cases were two sample cases that the veterinary had rejected, Kielsmeier. They were replaced with two new sample cases.

Q. What do you mean by sample cases, Mr. Andrade?

(Testimony of Adam Thomas Andrade.)

A. A sample case is a top grade egg that is put up specially with the orders of whoever is in charge to top an egg that does not classify or come within the specifications of the Army.

Q. Were the cases of eggs on your truck, aside from these [2991] sample cases, of the same grade as those in the sample cases?

A. No, sir, that was the idea of using a sample.

Mr. Faulkner: The witness is not qualified to testify to that.

Mr. Pratt: If you know.

Mr. Faulkner: He can't testify he knows something unless he has examined the cases.

The Court: Lay the foundation with respect to his knowledge of the eggs.

Mr. Pratt: Q. Had you examined these other eggs that were on your truck at that time?

A. Had I examined them before delivery?

Q. Yes.

A. No, sir, I hadn't examined them.

Q. Do you know what character of eggs, what quality of eggs they were from any conversation that you had with any of these defendants?

A. Yes, I did.

Q. What and with whom was the conversation?

A. The conversation—my conversation was with Mr. Goddard. He was my boss. [2992]

Q. And what was said?

A. Well, he would give me—he would say, "Well, Tom, we have 30 cases of eggs for the Presidio. I will put the——"

(Testimony of Adam Thomas Andrade.)

Mr. Faulkner: He couldn't say 30 cases of eggs for the Presidio on this transaction, because this is not a 30-case transaction. He specified the transaction. He has identified the number of cases.

The Witness: From 30 to 65 cases. I haven't forgotten what I said. I am just explaining—

Mr. Faulkner: Your Honor, I can argue with Mr. Pratt because I know where I stand, but I do not know my status in arguing questions of law with a witness. I think it should be suggested to him that he remain silent.

The Court: Let the record stand. Proceed, gentlemen.

Mr. Pratt: Q. What was said by Mr. Goddard about your load of eggs?

A. This particular load of eggs Mr. Goddard would bring—brought this lot of eggs which, whether it consisted of 30 or whether it consisted of 25, he put it over on one side of the truck—this is the width of the truck, here—he would put the flat from here over here; then with a truck, truck by hand—he would truck the samples down to me and put them on this side, and I would take five cases or six cases, whichever amount it was, I don't exactly remember, and I would stack them three high or four high, whichever height I had to stack them, to pile a certain amount of [2993] cases.

Q. We are asking for a certain conversation.

Mr. Faulkner: I ask that it all go out as not responsive.

(Testimony of Adam Thomas Andrade.)

The Witness: The conversation——

Mr. Faulkner: Just a moment. I ask the Court for a ruling. He asked for a conversation.

The Court: Read the question and answer.

(Question and answer read.)

The Court: Let it go out. The jury will disregard it. You asked for a conversation.

Mr. Pratt: Q. What was said by Mr. Goddard? That was the question.

A. Mr. Goddard told me that he was going to bring down this flat of eggs, and that he had so many samples. That is all that Mr. Goddard said.

Q. And then what did you do?

A. I proceeded to load the eggs on the truck.

Q. Where did the eggs come from? Who gave you the eggs?

A. Mr. Goddard gave me the eggs.

Q. You spoke a while ago of an occurrence at the time of the Democratic National Convention, or just before that time, and you spoke of certain cases being stamped with this stamp which you have described as being similar to the stamp Exhibit 175. Do you recall the number of cases that were involved in that incident?

A. How do you mean that? [2994]

Q. You spoke of cases being stamped up by various individuals with this stamp you described. How many cases were involved, and for whom was the order being made up?

A. It was made up for the Navy.

Q. And how many cases do you recall?

(Testimony of Adam Thomas Andrade.)

A. As far back as I can recall it was a thousand cases.

Q. A thousand cases?

Mr. Faulkner: That was the year before the convention, Mr. Pratt.

Mr. Pratt: Q. I am talking about an incident just before the convention in 1940, and you fixed the time in connection with that event when certain cases were stamped. You say this was a Navy order? A. Yes, sir.

Q. Did you deliver these cases, however many were included? Did you, yourself, deliver them?

A. Most of them.

Q. Whereabouts? A. Pier 56.

Mr. Faulkner: If your Honor please, the testimony in this record is that in March, 1940, the year of the Democratic Convention, he saw that stamp in the possession of Jack Smith. Now he comes along and he testifies that in 1939 he took 1000 cases of eggs to Pier 56.

The Court: In any event, the jury heard the testimony. They are the ones to determine what the testimony is. Let us proceed.

Mr. Pratt: I am talking about another transaction. [2995]

The Court: What transaction?

Mr. Pratt: I am talking about a delivery of eggs to the Navy other than the ones that he described in connection with his talk about the Democratic Convention.

Mr. Faulkner: The point of my objection is he

(Testimony of Adam Thomas Andrade.)

never mentioned a single delivery at the time of the Democratic Convention. Mr. Pratt says to him, "How many eggs were involved in that delivery at the time of the convention?" The witness says, "A thousand cases to Pier 56." Now, that is the first mention of the delivery at the time of the convention.

The Court: He said he delivered seven truckloads and indicated how many were on each truck.

Mr. Pratt: He was talking about a delivery in 1939 of a thousand cases to Pier 56.

The Court: Yes.

Mr. Pratt: I am asking about another transaction in the year 1940.

The Court: Q. What is the transaction, if you know?

A. And in the transaction——

The Court: Just a moment.

Mr. Pratt: Let me ask the witness what it is, if the court please.

The Court: Identify what you are trying to prove, that is all.

Mr. Pratt: Q. Can you identify another shipment of eggs [2996] to the Navy in the year 1940?

A. Yes, there is a shipment of about 500 cases.

Q. Where were these eggs prepared for shipment?

A. They were prepared at Nye & Nissen's plant at 324 Townsend.

Q. By whom were they being inspected for the Navy? A. By Mr. Moosman.

(Testimony of Adam Thomas Andrade.)

Q. On how many occasions did he inspect eggs for that 500 case order for the Navy?

A. Well, he came in there about twice a day.

Q. For how many days? A. For a week.

The Court: Q. Do I understand that you are talking about a second order of 500 cases?

A. Yes, sir.

The Court: Proceed.

Mr. Pratt: Q. In connection with this order of 500 cases of eggs, do you know how the eggs were prepared for inspection by Mr. Moosman of the Department of Agriculture?

A. How he, himself, prepared them for inspection?

Q. No, how the eggs were prepared for inspection by the Department of Agriculture inspector.

A. I don't seem to get that.

Q. Were you there when Moosman inspected any of these eggs for this 500-case order for the Navy? A. Yes, sir.

Q. What did you observe in that connection?

A. Well, the connection was that Mr. Moosman and his associates were the ones that worked this particular order. None of us in the plant helped him. [2997]

Q. He got no assistance from the men in the plant? A. That is right.

Q. Where were the eggs that were inspected by him? How were they located?

A. They were right in front by the office, by Mr. Goddard's office.

Q. What were they on?

(Testimony of Adam Thomas Andrade.)

A. They were on a flat.

Q. How many cases?

A. 30 cases in this particular flat.

Q. That would be 30 cases at the time?

A. Yes, sir.

Q. Do you remember an occasion when Mr. Moosman examined, inspected one of these flats of 30 cases? A. Yes, sir, I do.

Q. And after he inspected them what did he do?

A. He left the plant.

Q. Were they marked? Were they stamped by him?

A. He stamped them with the stamp and he left.

Q. With his own stamp? A. Yes, sir.

Q. Then when he left what happened?

A. When he left we proceeded to take this flat of eggs back into the icebox to scrape his stamp off.

Q. Who ordered you to do that?

A. Mr. Goddard.

Q. And then what occurred?

A. What took place was, Mr. Moucharsh had this stamp similar to the one the Department of Agriculture uses.

Q. You refer to this Exhibit 175?

A. That is right. He grabbed the ink pad and he went over to stamp 30 cases that had not been looked at by the Department of Agriculture. [2908] Just about the time that he was half way through, Mr. Moosman and his associate must have forgot something—I don't know what it was—but they came back.

Q. And then what happened?

(Testimony of Adam Thomas Andrade.)

A. Ruby—Mr. Goddard, rather, was the first one to spot Mr. Moosman coming up the stairs, and he started going over towards Mr. Moncharsh to tell him——

Q. Did he say anything to him?

A. Who? Mr. Goddard?

Q. Did Mr. Goddard say anything to Mr. Moncharsh?

A. No, he did not. Mr. Moncharsh just then turned around and seen Mr. Moosman and his associate, and he took the stamp and hurried and stuck it in his pocket.

Q. Who else was there at that time?

A. Mr. Jack Smith was present at the time.

Q. Did you hear any conversation at that time between Mr. Jack Smith and Mr. Moncharsh?

A. Yes, I did. [2999]

Q. What was said?

A. Mr. Jack Smith told Mr. Moncharsh, he said, "Abe, if you don't cut this kind of business out you are going to get all of us in the penitentiary." He said, "You are going too far."

Q. Go ahead and complete it.

A. He said, "You are going too far." He said, "You continue doing it."

Mr. Moncharsh turned around to Mr. Smith and said, "What is the matter with you guys? Are you afraid? These guys don't know nothing anyhow." He says, "They're only——" Well, there were two —he said they were a bunch of somebody that didn't know anything.

(Testimony of Adam Thomas Andrade.)

Q. Was that the extent of that conversation on that subject?

A. That is the extent of the subject about that subject, yes. There was no more said about it.

Q. Do you recall any occurrence when the Army stamp was applied to eggs or egg cases or otherwise by the employees there, including yourself?

A. Yes, I do.

Q. When was such an occurrence?

A. Well, such an occurrence happened quite a few times. This particular time was about in the latter part of 1938, when there wasn't many fresh eggs. This particular inspector from the Army came down to inspect the eggs.

Q. Who was there?

A. There was myself, Menges, and Henry Pinola helping Menges.

Q. Then what was done? What happened?

A. The inspector [3004] went into the—the veterinary went into the candling room.

Mr. Faulkner: This is directed against Mr. Pinola or Mr. Menges. I mean Mr. Menges?

Mr. Pratt: I object to this interruption. Unless there is an objection addressed to the colloquy I do not believe it is up to the witness to make any answer to it.

Mr. Faulkner: I object to it as incompetent, irrelevant, and immaterial in the present form, unless counsel for the Government indicates what count and what person he is offering the evidence against, so that the record will be clear.

(Testimony of Adam Thomas Andrade.)

The Court: Counsel may indicate.

Mr. Pratt: This was in 1938, and it is offered particularly against the defendant Menges, who so far has been mentioned, and inasmuch as he is one of the conspirators named in the indictment, it is offered against all the defendants as to the first count.

Mr. Faulkner: Counsel for the Government within the past half hour advised the court he recognized that his record is deficient in that there is no conspiracy established in this record for the year 1938.

Mr. Pratt: I do not make any such concession.

Mr. Faulkner: You said conceding I was right in that respect, then you passed over the year 1938 and went into the year 1939. Now, there is no conspiracy established in this record in 1938.

Mr. Pratt: In order to close the argument I will withdraw [3001] the question.

Mr. Faulkner: That is very nice.

The Court: The jurors may take a recess for a few minutes.

(Recess.)

The Court: Waive the roll call; stipulated all the jurors are in the box. Proceed.

Mr. Pratt: Q. Mr. Andrade, you stated you left the employ of Nye & Nissen about the month of November 1940?

A. That is true.

Q. At the time your severed your connection

(Testimony of Adam Thomas Andrade.)

with that concern did you have some conversation with Mr. Goddard on that subject?

A. Yes, sir, I did.

Q. What was that conversation?

A. Well, you see——

The Court: State the conversation to the jury.

Mr. Pratt: Q. State the conversation.

A. See, I got hurt.

Mr. Faulkner: This is not a conversation, your Honor.

The Witness: It leads up to the conversation, your Honor.

The Court: Give the jury the conversation.

The Witness: Well, the conversation—I went back this one Saturday and Mr. Goddard came up from the back with three dozen eggs and two pounds of butter, so when I went into the dressing room and I got a hook and a pair of jeans and I think an old pair of gloves——

Mr. Faulkner: This still is not the conversation. [3002]

Mr. Pratt: Q. What did you then say?

Mr. Faulkner: May the rest all go out, your Honor?

The Court: It may go out. State the conversation.

The Witness: So I went over to wrap it up in a piece of paper, and Mr. Goddard gave me these eggs and butter. This is where the conversation starts. I told Mr. Goddard, I says, "No, Ruby, thanks." I said, "I don't work here any more."

He said, "Well, take it home to your wife."

(Testimony of Adam Thomas Andrade.)

I said, "No, Ruby, I am still capable of beating my wife." I said, "You know, Ruby, I got hurt here, been off now about two weeks." I said, "Your brother-in-law, Abe Moncharsh, has never sent a check out to my house. What are you worried about my family now for?"

So I told Mr. Goddard, I said, "You know, Ruby"—and I am using exactly the words I used then—I said, "I worked hard for you people. I done a lot of dirt for you people." And I says, "Abe gave me the run-around. I got hurt on the job, and due to the fact that you and your brother-in-law, Abe, testified against me when I applied for an operation for a hernia to the State, the State turned me down. When I go out of here, nobody ever told me the kind of business you operate, but," I said, "I am going to."

Mr. Goddard begged me not to say anything. He begged me to go up and see Mr. Moncharsh. I told Mr. Goddard, I said, [3003] "If Abe wants to see me let him come downstairs to see me. I'm not going upstairs to see him." So we talked there for about two or three minutes, right in the plant, and I started to walk out. Mr. Goddard, wearing a smock——

Mr. Faulkner: This is just a rambling account. He was asked to state a conversation.

Mr. Pratt: He is stating the conversation.

Mr. Faulkner: No, he is walking all over the plant. He has been up and down the plant three or four times.